

Attorney's Docket No.: 13466-002011

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 06 2006

Applicant : Thomas G. Woolston                      Art Unit : 3624  
Serial No. : 09/557,617                              Examiner : Charles Kyle  
Filed : April 25, 2000  
Title : APPARATUS AND METHOD FOR REMOTE SELLERS TO INITIATE  
AUCTION INSTANCES AT AN AUCTION FACILITATOR SYSTEM AND  
RECEIVE OR MAKE PAYMENT FOR ITEMS BOUGHT AND SOLD WITH  
THE SYSTEM BY BOOK ENTRY ACCOUNTING BETWEEN PARTICIPANT  
ACCOUNTS ACCESSIBLE TO THE SYSTEM

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL UNDER 37 CFR §1.102(d)

Applicant hereby petitions for the above-referenced application to be made special under the provisions of 37 CFR 1.102(d). The reason for this petition is actual infringement (see MPEP 708.02(II)).

In support of this petition, Applicant's representative, the undersigned, states that:

- A. There is an infringing method in use actually on the market. This method is used by eBay Inc.
- B. A rigid comparison has been made of eBay's infringing method with the claims of the application, and, in my opinion, at least some of these claims are unquestionably infringed.
- C. A thorough search of the prior art has been made, both in connection with the prosecution of this and related applications, and in connection with the concurrent litigation between the Assignee, MercExchange LLC, and the infringer, eBay Inc.

It is believed that all of the references deemed most closely related to the subject matter encompassed by the claims are already of record. As such, Applicants are not submitting herewith any further references (see MPEP 708.02(II)).

## CERTIFICATE OF TRANSMISSION BY FACSIMILE

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I hereby certify that this correspondence is being transmitted by facsimile to the Patent and Trademark Office on the date indicated below.

Date of Transmission January 6, 2006  
Signature Nancy Grant

Nancy Grant  
Typed or Printed Name of Person Signing Certificate

Applicant : Thomas G. Woolston  
Serial No. : 09/557,617  
Filed : April 25, 2000  
Page : 2 of 2

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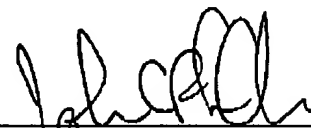
Attorney's Docket No.: 13466-002011

Please charge \$130 in payment of the fee required under 37 CFR §1.17(h), and any other charges or credits, to Deposit Account No. 06-1050.

Respectfully submitted,

Date: \_\_\_\_\_

6 Jan 2006

  
\_\_\_\_\_  
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Examiner : Charles Kyle

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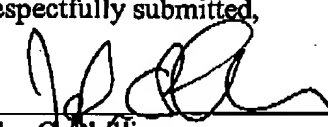
Title : Apparatus and Method for Remote Sellers to Initiate Auction Instances at an Auction Facilitator System and Receive or Make Payment for Items Bought and Sold With The System by Book Entry Accounting Between Participant Accounts Accessible to the System

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Attached to this facsimile communication cover sheet is Petition to Make Special Under 37 CFR §1.102(d), faxed this 6<sup>th</sup> day of January, 2006, to the United States Patent and Trademark Office.

Respectfully submitted,

Date: January 6, 2006

  
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